

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	<b>SOLICITOR</b> JUL 24 2006	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court U.S. PATENT & TRADEMARK OFFICE WDNC on the following  Patents or  Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
3:06cv297	7/24/06	Western District of North Carolina
PLAINTIFF		DEFENDANT
Frontier Paper & Packaging, Inc.		Menzel Diversified Enterprises, LLC d/b/a Providence Packaging
PATENT OR	DATE OF PATENT	HOLDER OF PATENT OR TRADEMARK
1 7,021,524		**see attached copy of complaint**
2 5,920,268		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY				
		<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK			
1					
2					
3					
4					
5					

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT		
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CLERK	(BY) DEPUTY CLERK	DATE
Frank G. Johns		7/24/2006

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director  
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
Charlotte Division  
Civil Action No. \_\_\_\_\_

FRONTIER PAPER & PACKAGING, INC.,

Plaintiff,

v.

MENZEL DIVERSIFIED ENTERPRISES,  
LLC, d/b/a PROVIDENCE PACKAGING

Defendant.

**COMPLAINT  
(Jury Trial Requested)**

Plaintiff, Frontier Paper & Packaging, Inc. ("Frontier"), by and through its counsel, brings this patent infringement action against Defendant Menzel Diversified Enterprises, LLC d/b/a Providence Packaging ("Providence"), and alleges as follows:

**JURISDICTION AND VENUE**

1. This is a complaint for infringement of U.S. Patent No. 7,021,524 (hereinafter "the '524 Patent") and U.S. Patent No. 5,820,268 (hereinafter "the '268 Patent") under 35 U.S.C. §271.
2. The Court has original and exclusive jurisdiction over the subject matter of the complaint under 28 U.S.C. §§ 1338(a).
3. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

**PARTIES**

4. Plaintiff Frontier is an Indiana corporation having its principal place of business at 750 Kentucky Avenue, Indianapolis, Indiana 46221.

5. Defendant Menzel Diversified Enterprises, LLC is a limited liability company organized pursuant to §57C-2-20 of the General Statutes of North Carolina, which resides and has its principal office at 19207 Tyree Court, Cornelius, North Carolina 28031, within this District. Defendant does business as Providence Packaging, an unincorporated entity, which has a place of business at 256 Raceway Drive, Granite Falls Building, 8-A, Mooresville, NC 28117, within this District.

#### GENERAL ALLEGATIONS

6. Plaintiff Frontier manufactures and sells within the United States commercially successful insulated liners (the "Thermal Shield" liners) pursuant to the '524 Patent and the '268 Patent, as issued by the United States Patent and Trademark Office on April 04, 2006 and October 13, 1998; respectively. Copies of the duly and legally issued '524 Patent and '268 Patent are attached hereto as **Exhibits A and B**, which are incorporated herein by reference. The Patents are in full force and effect.

7. Plaintiff Frontier is the owner of the '524 Patent and the '268 Patent by virtue of an assignment from the inventor to Plaintiff's predecessor-in-interest who subsequently sold those Patents to Plaintiff.

8. Plaintiff Frontier has complied with Title 35 U.S.C. §287 by appropriate patent marking and/or notice of infringement prior to the commencement of this civil action.

9. Plaintiff Frontier notified Defendant of its infringement of the '524 Patent in a letter mailed to Defendant's customer dated April 10, 2006. Defendant's customer acknowledged receipt of Plaintiff's letter and acknowledged that Defendant was notified of the alleged infringement, as evidenced by **Exhibit C**.

10. Defendant Providence manufactures insulated liners which are then sold and distributed to customers throughout the United States.

11. Defendant Providence sells the infringing liner throughout the United States and in this district.

12. Defendant Providence has infringed upon the '524 Patent and the '268 Patent in violation of Title 35 U.S.C. §271 by making, using, selling, offering to sell, and/or importing the insulating liners, which infringe the '524 Patent and the '268 Patent, all to the damage and injury of the Plaintiff Frontier.

13. Plaintiff is informed and believes that the infringement by Defendant Providence has been willful and deliberate.

14. Plaintiff Frontier has suffered and continues to suffer irreparable damage and injury for which there is no adequate remedy at law against the Defendant for its infringement of the '524 Patent and the '268 Patent.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Court enter judgment in Plaintiff's favor and that the Court:

1. Declare that Defendant's conduct infringes the '524 Patent and the '268 Patent and the exclusive rights in said Patent held by Plaintiff;
2. Declare that such infringement was willful;
3. Enter a preliminary and permanent injunction which enjoins Defendant, its officers, directors, agents, affiliates, subsidiaries, servants, employees, attorneys, successors and assigns, and those persons in active concert with or controlled by them:

- (a) from making, using or selling products which infringe the '524 Patent and the '268 Patent;
- (b) from contributing to the infringement of the '524 Patent and the '268 Patent; and
- (c) from inducing others to infringe the '524 Patent and the '268 Patent.

4. Require Defendant, its officers, directors, agents, affiliates, subsidiaries, servants, employees, attorneys, successors and assigns, to recall from all distributors, wholesales, retailers, and all others known to Defendant, all products which infringe the '524 Patent or the '268 Patent, and to serve upon Plaintiff, within thirty (30) days after service of the Court's order as herein prayed for, a written report under oath setting forth in a detailed manner the form in which Defendant has complied with the Court's order;

5. Require Defendant to account to Plaintiff for Plaintiff's lost profits and for damages sustained by Plaintiff by reason of the infringement of the '524 Patent and the '268 Patent (35 U.S.C. §284);

6. Award Plaintiff actual damages suffered as a result of Defendant's infringements of the '524 Patent and the '268 Patent and the rights held by Plaintiff in said Patents, and pursuant to finding a willful infringement, order that such damages be trebled;

7. Enter judgment against Defendant for Plaintiff's damages in an amount to be determined at trial, and for prejudgment interest based on infringement damages accruing from the date of Defendant's respective acts of infringement;

8. Declare this case exceptional under 35 U.S.C. §285 and award reasonable attorneys' fees and Plaintiff's costs of suit pursuant to 35 U.S.C. §284;

9. Direct Defendant to deliver to Plaintiff for immediate destruction all advertisements, circulars, brochures or other promotional or advertising items, websites or other materials for their infringing liners;

10. Grant such other further relief as the equity of the case may require and as this Court may deem just and proper.

Plaintiff requests a trial by jury.

This the 24<sup>th</sup> day of July, 2006.

By: \_\_\_\_\_

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